



DT07 Rec'd PCT/PTO 20 MAY 2004

DAC #705

IN THE UNITED STATES DESIGNATED/ELECTED OFFICE

Applicant(s) (DO/EO/US) : Berthelon, Jean-Jacques, et al. RECEIVED  
U.S. Application No. : 10/019,683 MAY 24 2004  
Filed : January 4, 2002 OFFICE OF PETITIONS  
Title: DIHYDROBENZOBENZODIAZEPINS AND THEIR USE FOR TREATING  
DYSLIPIDEMIA

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

OR ALTERNATIVELY

PETITION UNDER 37 CFR § 1.137(B) TO REVIVE AN UNINTENTIONALLY  
ABANDONED APPLICATION

Office of Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

SIR:

Applicants request that the holding of abandonment of the above-identified application be withdrawn.

Following the guidelines outlined under MPEP § 711.03(b), under the heading "II. Petition to withdraw holding of abandonment based on failure to receive office action" that follow the holding in *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), applicants' undersigned representative states that the Office communication dated September 10, 2002, was not received by or firm and attests to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

Attached to this statement is a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. No action is indicated for attorney docket number Merck-2358 for November 10, 2002, which was the due date for action on the Office communication dated September 10, 2002.

Adjustment Date: 06/23/2004 CSM00T

05/24/2004 AWONDAF1 00000013 133402 10019603

01 FC:1453 1330.00 DA

05/24/2004 AWONDAF1 00000013 133402 10019603

01 FC:1453 1330.00 CR

As indicated under the same section of the MPEP as identified above, under the heading "Petition Fee Requirement," no fee is due for this petition.

Granting of this petition is respectfully requested.

Once this petition is granted, applicants request that the attached Declaration be entered into the application. This Declaration is responsive to the Office communication dated September 10, 2002.

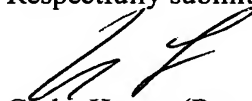
If the above requested petition is not granted, applicants request in the alternative that this petition be considered as a request that the above-identified application unintentionally abandoned be revived.

Attached to this Petition is a signed Declaration by all the inventors and a copy of the Notice of Defective Response Abandonment mailed on February 3, 2004, from the USPTO. The unavailable inventor is no longer unavailable and has signed the Declaration on May 7, 2004, along with the other inventors.

The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

The Commissioner is hereby authorized to charge any fees associated with this response, including the petition fee of \$1,300.00 as set forth in § 1.17(m) to Deposit Account No. 13-3402.

Respectfully submitted,



Csaba Henter (Reg. No. 50,908)

Anthony J. Zelano (Reg. No. 27,969)

Attorneys for Applicants

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**Filed: May 20, 2004**

AJZ/CH/pdr:K:\Merck\2358\Petition to Revive.doc

Friday, November 08, 2002

## Due Date List By Date

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From 11/9/2002 To 11/12/2002

Due date	Action Due	Case Number	Country	Title:	Attorney	Assistan
09-Nov-2002	CK. O.F.R. 5TH MO.	SCH-1087	C2 US	1,4,7,10-TETRAAZACYCLODODECANE BUT	AJZ	
09-Nov-2002	RESP 1 MO EOT	SCH-1746	US	MLP-GEN, NUKLEINSAUREN, POLYPEPTID	AJZ	NEK
09-Nov-2002	CLAIM US/FORGN PRIORITY (FINAL)	SCH-1818	US	1-ARYL-2-N, S- OR O-SUBSTITUTED BENZI	AJZ	HBS
09-Nov-2002	CHECK CERTIFICATION (FINAL)	SCH-1818	US	1-ARYL-2-N, S- OR O-SUBSTITUTED BENZI	AJZ	HBS
09-Nov-2002	FILE UTILITY APPLICATION (F)	SYNPAC-1	V1 US	PREDICTION OF BREAST CANCER STATES	AJZ	
09-Nov-2002	2ND MAIN FEE DUE	UCHIY-16	US	PERCUTANEOUS ABSORPTION PROMOTER	JLW	JAS JMM
10-Nov-2002	IDS DUE	BARD-6	US	PREPARATION OF LIQUID CRYSTALS HAVI	AJZ	JAS
10-Nov-2002	STATUS CHECK	BAYER-2X		FOREIGN FILING GOVERNMENTAL APPRO	AJZ	
10-Nov-2002	RESPONSE DUE 1/10/2003	FSC-7	EP	METHODS AND COMPOSITONS FOR MOUD	AJZ	
10-Nov-2002	OPPOSITION DEADLINE 11/14/2002	FTDIMS-68L		FTDI V. MERCARI TECHNOLOGIES - POTE	SJM	
10-Nov-2002	MISSING PARTS RESP.	GUROB-8	US	LOW TEMPERATURE MOLDING COMPOSIT	RJT	AAP
10-Nov-2002	FINAL REJ 3 MOS.(F)	MERCK-2266	US	CONTINUOUS METHOD FOR THE SEPARAT	AJZ	JER
10-Nov-2002	NOA/TRANS 3 MO EOT(F)	MERCK-2266	US	CONTINUOUS METHOD FOR THE SEPARAT	AJZ	JER
10-Nov-2002	IDS RMDR.	MERCK-2285	D1 US	AMIDE AND UREA DERIVATIVES AS 5-HT	AJZ	CH
10-Nov-2002	CK PRIORITY/CERTIFCTN 1/10/03	MERCK-2285	D1 US	AMIDE AND UREA DERIVATIVES AS 5-HT	AJZ	CH
10-Nov-2002	NEW CASE FAX	MERCK-2573	US	MONO-, OLIGO- AND POLYMERS COMPRISI	AJZ	BPH
10-Nov-2002	STATUS CHECK	PET-2030X		FILE HISTORY OF USP NUMBER 5,648,579	IWM	
10-Nov-2002	CK RECEIPT OF TRANSLATIONS	PET-2034	US		IWM	JMM
10-Nov-2002	CK RECEIPT OF ENGLISH TEXTS	PET-2036	US		IWM	
10-Nov-2002	MSG. PARTS 4 MOS. EOT	PHARMA-122	US	PHARMACEUTICAL COMBINATION FOR TH	AJZ	BPH AAP
10-Nov-2002	FILE PROV. APPLN.	PHARMA-210	V1 US	METHOD OF TREATING PAIN WITH R ENA	BPH	
10-Nov-2002	FILE US FROM V DUE 11/13/2002	PHARMA-28	V1 US	POLYPEPTIDES OF PSEUDOMONAS AERUG	AJZ	BPH
10-Nov-2002	DRAWINGS DUE 12/10/2002	POPOV-3	US	ACELLULAR VACCINE COMPRISING THE 6	AJZ	
10-Nov-2002	SC CERTIFICATE OF CORR RCVD	SCH-1503	C1 US	COMPETITIVE PROGESTERONE ANTAGONI	AJZ	
10-Nov-2002	APP BR/TRANS 3 MOS. EOT	SCH-1700	US	USE OF SLIM3 FOR BINDING TO MOLECUL	AJZ	REM REM
10-Nov-2002	FILE US FROM FV DUE 11/13/2002	SCH-1850	V1 US		AJZ	DJC
10-Nov-2002	SEND TRANSLATIONS TO ASSOC	SCH-1902	US	PIPERAZINE DERIVATIVES THAT DESTABI	AJZ	JMM
10-Nov-2002	RESPONSE DUE (F)	SHUTT-1	IL	ASPARTOACYLASE GENE, PROTEIN, AND	RML	NEK
10-Nov-2002	RESPONSE DUE (F)	SHUTT-1	D1 IL	ASPARTOACYLASE GENE, PROTEIN, AND	AJZ	NEK

From 11/9/2002 To 11/12/2002

Due date	Action Due	Case Number	Country	Title:	Attorney	Assistan
10-Nov-2002	RESPONSE RE: SOU DUE (F)	SUN-7T	US	SCOTCHPINE + DESIGN	IWM	JRC
10-Nov-2002	APPLICATION STATUS CHECK	TAKIT-159	US	ELECTROSTATIC CHUCK FOR ION INJEC	AJZ	
10-Nov-2002	CK PRIORITY/CERTIFICTN 11/10/03	TAKIT-169	US	AN ODORLESS SILICONE COMPOUND, A M	AJZ	HBS
10-Nov-2002	STATUS RE FILING	TUBBS-1	US	SPILL-PROOF LID	JRM	
10-Nov-2002	RESPONSE DUE 12/11/2002	UMICH-5	EP	POLYMERS CONTAINING POLYSACCHARI	AJZ	JAS
11-Nov-2002	DISCOVERY DUE	AQUA-10L		OPPOSITION MATTER FOR MARK: EAU VIN	JS	
11-Nov-2002	IDS DUE	ATOCM-254	US	METAL SURFACES COATED WITH FLUORO	IWM	
11-Nov-2002	IDS DUE	BARD-5	US	AMINOSULFONYLBIPHENYL DERIVATIVES	AJZ	
11-Nov-2002	US FROM V DUE 2/11/03	BAYER-17	V1 US	ARYL UREAS WITH ANGIOGENESIS INHIBIT	RJT	DJC
11-Nov-2002	SEND 19 AMDTS. DUE 12/11/2002	BAYER-27-2	WO	RHO-KINASE INHIBITORS	AJZ	HBS
11-Nov-2002	SEND 19 AMDTS. DUE 12/11/2002	BAYER-27-4	WO	RHO-KINASE INHIBITORS	AJZ	HBS
11-Nov-2002	US FROM V DUE 2/11/03	BAYER-35	V1 US	ARYL UREAS AS RAF KINASE INHIBITORS	RJT	DJC
11-Nov-2002	US FROM V DUE 2/11/03	BAYER-36	V1 US	ARYL UREAS WITH RAF KINASE AND ANGI	RJT	DJC
11-Nov-2002	US FROM V DUE 2/11/03	BAYER-37	V1 US	PYRIDINE, QUINOLINE, AND ISOQUINOLIN	RJT	DJC
11-Nov-2002	RESPONSE DUE 12/7/2002	BOUNCY-4T	US	TARNETAS	JS	
11-Nov-2002	SOU &/OR EOT DUE 11/14/02	INTERT-11T	US	RIGHTS/PACKAGER	JS	
11-Nov-2002	SOU &/OR EOT DUE 11/14/02	INTERT-12T	US	RIGHTS/DESKTOP	JS	
11-Nov-2002	SOU &/OR EOT DUE 11/14/02	INTERT-13T	US	RIGHTS/TOOLKIT	JS	
11-Nov-2002	SOU &/OR EOT DUE 11/21/02	INTERT-14T	US	RIGHTS/AUDIO	JS	
11-Nov-2002	SOU &/OR EOT DUE 11/14/02	INTERT-15T	US	RIGHTS/VIDEO	JS	
11-Nov-2002	SOU &/OR EOT DUE 11/14/02	INTERT-18T	US	RIGHTS/KEY	JS	
11-Nov-2002	STATUS RE 312 ADMT.	MERCK-2133	C1 US	ORALLY ADMINSTRABLE IMMEDIATE-REL	AJZ	REM
11-Nov-2002	FILE US FROM FV 11/26/02	MERCK-2351	V1 US	IMMEDIATE RELEASE TABLET CONTAININ	AJZ	JER
11-Nov-2002	IDS DUE	MERCK-2496	US	X-RAY FLUORESCENCE ANALYSIS METHO	AJZ	RJT
11-Nov-2002	IDS DUE	MERCK-2500	US	PROCESS FOR THE BAEYER-VILLIGER OXI	AJZ	NEK
11-Nov-2002	SECT 8 DUE 11/11/03	NBUF-1T	US	AFRICAN AMERICAN COMMUNITY APPEA	JRM	
11-Nov-2002	INQUIRY RE NEW APPLN	NBUF-1T	US	AFRICAN AMERICAN COMMUNITY APPEA	JRM	
11-Nov-2002	(DUE ON 11/11/03)	NBUF-1T	US	AFRICAN AMERICAN COMMUNITY APPEA	JRM	
11-Nov-2002	APPLICATION STATUS CHECK	PET-1710	C1 US	HIGH OCTANE GASOLINE AND PRODUCTI	IWM	BPH
11-Nov-2002	US FROM V DUE 2/11/03	PHARMA-33	V1 US	GROUP B STREPTOCOCCUS ANTIGENS	AJZ	BPH DJC
11-Nov-2002	STATUS CHECK	PHARMA-68X		EVALUATION OF U.S. PATENT 5,449,520 AN	BPH	
11-Nov-2002	NOA/TRANS 1 MO EOT	SCH-1599	US	USE OF ANTIESTROGENS AS MALE BIRTH	AJZ	NEK
11-Nov-2002	IDS RMDR.	SCH-1701	C1 US	BENZOCYCLOHEPTENES, PROCESS FOR T	AJZ	BPH

CLIENT COPY

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## UNITED STATES PATENT AND TRADEMARK OFFICE OF PATENTS

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
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 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/019,683	Jean-Jacques Berthelon	MERCK 2358

INTERNATIONAL APPLICATION NO.
PCT/EP00/06230

I.A. FILING DATE	PRIORITY DATE
07/04/2000	07/06/1999

23599

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CONFIRMATION NO. 7804

371 FORMALITIES LETTER



\*OC000000011779850\*

Date Mailed: 01/30/2004

## NOTIFICATION OF DEFECTIVE RESPONSE ABANDONMENT

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

Applicant has failed to properly respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 03/11/2002 within the time period set therein.

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

CHARITTA A BURT

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## PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/019,683	PCT/EP00/06230	MERCK 2358

*Detd*  
*02/17/04*  
*DS*